

# **TRANSPORTATION INFRASTRUCTURE FINANCING ALTERNATIVES STUDY**

## **MINORITY REPORT ON FINAL RECOMMENDATIONS**

This minority report on the Transportation Infrastructure Financing Alternatives (TIFA) study will address concerns by the undersigned regarding the direction, scope, and content of the recommendations made by the committee. For reasons explained below, the undersigned believe that the TIFA committee has exceeded the scope of its statutory authority, has made unwise recommendations, and has failed to address possible public-private partnership solutions that could greatly benefit the citizens of Washington State by getting new highway projects done faster and more efficiently than the current system.

The format of this minority report will be to address the statutory authority issues in an opening section, and then to respond to specific committee recommendations with concerns regarding those recommendations.

### **Statutory Authority:**

The budget proviso which created the legislative committee that became the TIFA committee was passed originally in the 2002 Transportation Budget. That proviso is reprinted here in its entirety:

#### **Section 217 of ESHB 2451 (2002)**

The appropriation in this section is subject to the following conditions and limitations: \$300,000 of the motor vehicle account -- state appropriation is provided solely for a study of private-public partnerships in transportation. The department of transportation shall provide staff support to a legislative oversight committee that will manage a study of public-private partnerships in transportation. The legislative oversight committee will consist of three members from each caucus in each house of the legislature, appointed by the leadership of the legislators' respective caucus. The legislative oversight committee shall analyze and make recommendations on: (1) The barriers that prevent the private sector from providing transportation services, which could include ferry, bus, or monorail; (2) the use of public-private partnerships nationally and the experiences of other states in using public-private partnerships; (3) the public-private opportunities for transportation projects in Washington; and (4) the advantages and disadvantages of the financing options available for public-private partnerships. The legislative oversight committee shall report its findings and recommendations to the legislature by December 1, 2003.

As is clear from the text of the provision, the legislative committee created in the 2002 budget (and continued in the 2003 budget) was not conceived to examine “transportation infrastructure financing alternatives” – but one specific subset of such “alternatives” -- public-private partnerships.

The committee has truly traveled far a field from this directive. The committee’s final recommendations contain one section, out of eight, that direct bears on this topic. Another section, that dealing with “business investment in state infrastructure,” has some additional relevance. But it is striking that only 25% of the topics the committee chose to address are related to its statutory charge. Of course, the inescapable conclusion is that 75% of the topics the committee chose to address are not topics it was authorized to examine – and make recommendations upon – by the language of the authorizing statute.

Further, the committee was directed to undertake one task which it has not undertaken: the committee was specifically directed to analyze and make recommendations on “[t]he barriers that prevent the private sector from providing transportation services, which could include ferry, bus, or monorail”. Not a single one of the committee’s recommendations has fulfilled this statutory charge.

We the undersigned are particularly disappointed that the committee has chosen to focus in large part on new taxes and other revenue raising measures, rather than focusing, as the authorizing statute directed, on partnerships with the private sector.

The remainder of the minority report will respond to specific findings and recommendations of the TIFA committee.

## **Response to Majority Findings and Recommendations**

### **A. Reduce the Costs of Project Delivery**

#### **Strategic Planning:**

Local governments are already required to identify and site essential public facilities (which include state transportation facilities, RCW 36.70A.200; 36.70A.030(12)). They are required to identify lands useful for public purposes, including transportation corridors. RCW 36.70A.150. They are required, in the land use element of their comprehensive plan, to designate the proposed general distribution and general location of public facilities, which include streets, roads, and highways. RCW 36.70A.070(1); 36.70A.030(12). And they are required to identify state and local transportation system needs and incorporate designated levels of service. RCW 36.70A.070(6)(a)(iii)(C&F).

Local governments already plan and coordinate with the state. The DOT can submit comments on local comprehensive plans. And currently all local

governments planning under the GMA are preparing to update their local comprehensive plans under recent legislation laying out a timetable over the next four years. This offers the state DOT the perfect opportunity to comment on local comprehensive plans and maps included in such plans, allowing the DOT to request that such maps show all planned DOT projects.

But to take the process a step further and require local government to rezone -- and in many cases downzone -- parcels which might be used for a DOT project in 20 years (or never, if additional funding sources are not approved), will be a very great hardship on those governments. First, it robs them of an important tax base that supports local programs, putting police on the streets and fire-fighting personnel in the firehouses. Second, it may subject the local governments to legal liability for abrogating or reducing the property values of its citizens. The state is not suggesting that it will pay citizens for the loss of these development rights, not is the state suggesting that it would indemnify the local governments. It is suggesting that local governments downzone private property, causing citizens harm, in order to save the state money in condemning the property when and if a state project is ever built.

While acknowledging planned state projects in comprehensive plans is a laudable goal, downzoning property and robbing citizens of the rights to use their property for long -- potentially very long -- periods of time before a state project is built robs the citizens of their property value and the local governments of valuable tax base.

### Environmental Requirements

The TPEAC process has been operating for almost three years now, and it has thoroughly studied the barriers to faster and more coordinated issuance of regulatory permits. But TPEAC has not actually restructured the issuance of permits, or made significant changes to the permit process for individual projects. TPEAC has made some progress in programmatic permits, but needs to actually implement reforms in permit delegation, one-stop permitting, and integrated permit processes for all transportation projects. Legislative action is needed to fully implement transportation permit streamlining opportunities identified through the TPEAC process, and the legislature should now act to implement substantive permit streamlining reforms.

## **B. Recover Transportation Investment Costs**

### State Impact Fees

Tax increment financing is an idea which should be fully explored, but impact fees are a poor choice for infrastructure financing, and an inequitable choice. New, high-value growth pays a great deal of tax dollars, which supports -- and in many cases subsidizes -- the service provided to older development which no longer generates revenues sufficient to pay for the services it uses.

To place impact fees on new development in addition is unfair. Impact fees have been inaccurately and imprecisely calculated in the past. Further, the myth that new development does not pay for itself and therefore must be subsidized by exactions has been disproved by studies such as those done by Thomas A. Heller of Regional Analytic Sciences in Seattle, WA. The undersigned dissent as to the recommendation that impact fees be imposed for state highway improvements.

### **C. New Revenue Opportunities**

#### **Index Gas Tax**

The public expects elected officials to exercise continued control over the level of investment in transportation in Washington State. That ability would be eroded if the gas tax were indexed to inflation. Further, the buying-power of the gas tax is eroding from technological increases in fuel economy, particularly from hybrid vehicles, and will be rendered a complete nullity upon widespread development of fuel cell vehicles. Indexing the gas tax to inflation will remove incentives to comprehensively reexamine the manner in which revenue is raised for transportation investments in Washington State.

#### **Dedicated Transportation Taxes**

In principle this concept is valid. However, support for such a principle must bend to existing operating budget realities. Once the state's economy has improved and the current budget crisis is past, this recommendation should be implemented.

#### **Weight Fees**

Gross weight fees should only be imposed on passenger cars and light trucks if existing user fees are reduced or repealed. Before one can justify imposing weight fees on SUVs and light trucks, valid scientific studies would have to be cited demonstrating that such vehicles cause damage to the roads in excess of that caused by passenger cars. Further, SUVs and light trucks already pay more to use the roads because they pay more in gas taxes than smaller vehicles.

Weight fees on large recreational vehicles are worthy of support in principle. However, the legislature should examine a waiver of such fees for elderly citizens on fixed incomes.

### **D. Transportation Debt Policy**

The minority concurs in this section.

### **E. Impose Tolls**

The term “equity issue” needs further defining by this committee if they are going to suggest that the full legislature examine “issues” relating to imposing tolls to improve traffic flow.

### **F. Market Based Pricing**

The minority concurs in this section.

### **G. Expanding RTID Concept**

#### **Minority Report Response:**

Counties currently have unused local taxing authority, and can form interlocal partnerships through interlocal agreements to jointly construct transportation projects that would benefit more than one municipality. Existing resources should be evaluated prior to the authorization of new districts with distinct powers to levy new taxes.

### **H. Business Investment in State Transportation Infrastructure**

The minority concurs in this section.

### **I. Future Public-Private Partnership Program**

Most of these recommendations are worthy of support. However, without a very compelling justification the state should not limit the maximum rate of return on private capital investment.

### **Minority Report Concluding Summary:**

This committee has greatly exceeded its statutory authorization. The undersigned members have been frustrated by the resistance of many committee members to greater utilization of the private sector to provide transportation services in Washington State. Models of the efficiencies gained by using the private sector to provide services are growing, such as California Private Transportation's profitable operation of a tollway in Orange County, or the successful public-private partnership to run the ferry system in British Columbia. By utilizing the inherent efficiency of the private sector, we can provide the citizens of Washington with much greater bang for their transportation buck. That was the task set to this committee in the 2002 budget. That task has gone largely unfulfilled.